

PATENT

Atty Docket No.: D03045
App. Ser. No.: 10/712,427

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks. Claims 20-23 have been canceled without prejudice or disclaimer of the subject matter contained therein. Claims 1-19 and 24-28 are pending in the present application of which claims 1, 6, 12, 16, 24, 26, 27, and 28 are independent.

Claims 26-28 were rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter.

Claims 1, 2, 4-9, 11-20, and 22-28 were rejected under 35 U.S.C. §102(a/e) as allegedly being anticipated by Nanjundiah (2002/0129243).

Claims 3, 10, and 21 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Nanjundiah (2002/0129243) in view of Clark et al. (5,864,747).

Drawings and Information Disclosure Statement (IDS)

The Examiner's indication of the acceptability of the drawings is appreciated.

The Examiner's acknowledgment of the complete consideration of the references as submitted in the IDS mailed July 15, 2004 is also appreciated.

Claim Rejection Under 35 U.S.C. §101

Claims 26-28 were rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. Particularly, the Office Action alleged that the claimed "computer readable carrier" includes intangible embodiments that are non-statutory.

To expedite the prosecution of the present application, claims 26-28 have been amended such that the claimed computer readable carrier has been changed to "computer-

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readable medium that is a physical memory storage device.” Accordingly, it is respectfully submitted that the now-claimed “computer readable medium” includes a physical embodiment that is tangible as desired by the Office Action. Withdrawal of the rejection of claims 26-28 under 35 U.S.C. §101 is therefore respectfully requested.

Claim Rejection Under 35 U.S.C. §102

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrik GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

Claims 1, 2, 4-9, 11-20, and 22-28 were rejected under 35 U.S.C. §102(a/e) as allegedly being anticipated by Nanjundiah.

Independent claims 1 and 27 (and dependent claims 2-5)

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As cited in the Office Action, Nanjundiah at FIG. 2 and paragraph [0026] merely shows the use of a single encryptor at 112 to encrypt selected data packets for a single server process 6 and the combining of the selected data packets with unselected data packets for transmission to a single client process 2. Because the destination system is a single client process 2, there is at most a single class of destination system for encryption of the selected data packets. Thus, there is at most a grouping or combining of unselected data packets together with a single encrypted set of selected data packets.

In contrast, claims 1 and 27 recite, *inter alia*, “encrypting said secure blocks for each of a plurality of classes of destination systems, thereby forming *a plurality of encrypted secured block sets*” and “grouping said unsecured blocks and *the plurality of encrypted secured block sets* as the common data stream.” (Emphasis added). That is, as claimed, a plurality of encrypted secured block sets are formed (not just one set), each for a class of destination systems, and such secured block sets (not just one set) are grouped or combined together with the unsecured blocks to form the common data stream.

Accordingly, it is respectfully submitted that Nanjundiah fails to disclose each and every element arranged as in claims 1 and 27 (and their dependent claims 2-5). Withdrawal of the rejection of claims 1-5 and their allowance are therefore respectfully requested.

Independent claims 6 and 28 (and dependent claims 7-9)

As cited in the Office Action, Nanjundiah at paragraphs [0034] and [0035] merely shows a decryption of data packets in a data packet sequence, according to a single encryption key established between the data source and the data destination, and a generation of the data packet sequence at the destination from the decrypted data packets. Thus, at most,

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a single decrypted data packet set is produced for a subsequent generation of the data packet sequence at the destination. In contrast, amended claims 6 and 28 recite, *inter alia*, “decrypting said secure blocks for each native class of each of the destination systems, thereby forming *decrypted secure block sets for the plurality of classes of the destination systems*” and “grouping said unsecure blocks and *said decrypted secure block sets* as a useful stream for use by said destination system.” (Emphasis added). That is, as claimed, a plurality of decrypted secure block sets are formed (not just one set) and such decrypted secure block sets (not just one) are grouped with unsecure blocks to form a useful stream at the destination.

Accordingly, it is respectfully submitted that Nanjundiah fails to disclose each and every element arranged as in claims 6 and 28 (and dependent claims 7-9). Withdrawal of the rejection of claims 1-5 and their allowance are therefore respectfully requested.

Independent claims 12, 16, 24, and 26 (and their dependent claims 13-15, 17-19, and 25)

Claims 12, 16, 24, and 26 also recite “encrypting [or encrypted] said secure blocks for each of a plurality of classes of destination systems, thereby forming a plurality of encrypted secured block sets.” Claims 13 and 17 also recite “said encryptor combines said encrypted secure blocks [which now include a plurality of encrypted secured block sets] and said unsecure blocks to form a common data stream.” Thus, claims 12-15, 16-19, and 24-25 are not anticipated by Nanjundiah for at least the reasons set forth above for claim 1.

Accordingly, it is respectfully submitted that Nanjundiah fails to disclose each and every element arranged as in claims 12-19 and 24-26. Withdrawal of the rejection of these claims and their allowance are therefore respectfully requested.

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Claim Rejections Under 35 U.S.C. §103(a)

Claims 3, 10, and 21 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Nanjundiah in view of Clark et al..

The rejection of claim 21 is moot because it has been canceled.

As discussed above, claims 3 and 10 are not anticipated by Nanjundiah. In addition, the Office Action does not rely upon Meyerzon et al. to make up for the deficiencies in Nanjundiah. Indeed, Meyerzon et al. discusses neither the encryption of a set of secure blocks into a plurality encrypted secured block sets nor a decryption of the plurality of secure block sets as claimed.

Accordingly, the Office Action failed to establish a *prima facie* case of obviousness against claims 3 and 10, and they are allowable as respectfully submitted above.

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 503290.

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Respectfully submitted,

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By


Tiep H. Nguyen
Registration No.: 44,465MANNAVA & KANG, P.C.
8221 Old Courthouse Road
Suite 104
Vienna, VA 22182
(703) 652-3822
(703) 865-5150 (facsimile)